

## **II. Remarks**

Please accept the amendments contained above in Section I. New claim 7 has been added without the addition of new matter. Claims 1, 2, and 6 were rejected under U.S.C. § 102(b) as being anticipated by the Niemela reference. Independent claims 1, 5, and 6 are amended to more clearly describe applicant's invention; however, no new matter has been added. Applicant respectfully disagrees that the Niemela reference teaches each element of claims 1, 2, and 6.

First, Niemela does not have an "elongated body" as required by Applicant's invention. Items 8 and 9 in Niemela defined a "telescopic beam 7" (column 2, lines 58-66). One end 6a of this telescopic beam is connected at the midpoint of frame R and has two sections 8 and 9, where section 9 is "perpendicular" to section 8. Unlike the "removably attached" elongated body of Applicant's invention, there is no teaching in Niemela that the telescopic beam is "removably attached." Likewise, the telescopic beam of Niemela does not have a "length defined by a front located adjacent to a transport vehicle cab and a rear located opposite the front," as required by each of the independent claims of the present invention. Niemela also does not teach a "carriage...that travels the length of the elongated body." And finally with respect to claims 1-6 of Applicant's application, Niemela does not teach or disclose "rollers...that can engage a container or other structure being loaded or unloaded onto the elongated body." Each of the above mentioned missing items are elements that are found in each of the three pending independent claims (1, 5, and 6) of Applicant's application. For these reasons alone Applicant respectfully submits that Niemela cannot stand as an anticipatory reference. Likewise, because so many of Applicant's claimed elements are missing from Niemela a *prima facie* case of obviousness can also not be maintained. Accordingly, Applicant requests that this rejection be

withdrawn.

Yet another major distinction between Niemela and Applicant's invention is that Niemela requires that the container being loaded or unloaded must be maintained in a substantially horizontal position relative to the ground. This is because the telescopic beam of Niemela works like a crane. As such, the container must be lifted vertically from the ground while maintaining the container horizontal and then swung over the vehicle where the crane then lowers the container vertically onto the vehicle, again maintaining the container in a horizontal position. In contradistinction, Applicant's invention *cannot* maintain the container in such a horizontal plane because the front of the elongated body "is lifted to a position above the rear of the elongated body" (see (f) in claim 1; (g) in claim 5; and (f) in claim 6). Such positioning of the elongated body necessarily causes the container to be angled relative to the ground during loading/unloading. This is completely opposite of the apparatus disclosed in the Niemela reference. Moreover, with Applicant's invention the "carriage" can push a container off the rear of the "elongated body" onto a loading dock for example without ever raising the container vertically or having to raise the front end of the "elongated body." This would be impossible using the Niemela apparatus because Niemela does not have a "carriage" and it cannot load or unload a container from the rear of the vehicle using the disclosed telescopic beam, which is positioned in the center of the vehicle.

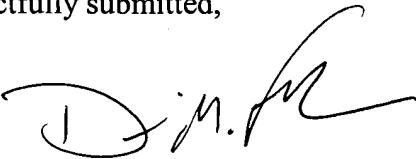
The Examiner has also rejected claims 3-5 as obvious under 35 U.S.C. § 103(a) over Niemela in view of Corompt. For the reasons set forth above Applicant submits that a *prima facie* case of obviousness cannot be maintained because the primary reference Niemele is missing many of the elements of independent claims 1, 5, and 6. Accordingly, Applicant

requests that this rejection also be withdrawn.

Applicant believes pending claims 1-7 are now in a condition for allowance and respectfully request an early indication of same. If for any reason the application is not in condition for allowance and a telephonic conference would be helpful, please do not hesitate to contact the undersigned directly at 312/913-2143.

Respectfully submitted,

Date: 5/27/05

By:   
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